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OFFICE OF PETITIONS

In re Application of : ON APPLICATION FOR
Jernej Jelenic : PATENT TERM ADJUSTMENT
Application No. 10/070,121 : and
Filed: September 18, 2002 : **NOTICE OF ABANDONMENT**
Atty Docket No. ACD2731US :

This is a decision on the paper styled "AMENDMENT UNDER RULE 312" filed October 7, 2004. This paper should have properly been filed as an application for patent term adjustment under 37 CFR 1.705(b). Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to one hundred forty-four (144) days. This paper was recently forwarded to the undersigned for consideration.

The application for patent term adjustment is **DISMISSED** without consideration on the merits.

On September 10, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On June 19, 2003, applicant timely submitted an application for patent term adjustment.

Applicant is advised that § 1.705(b) provides the avenue before the Office for requesting reconsideration of the patent term adjustment indicated in the notice of allowance. See § 1.702-1.705. Moreover, § 1.705(b) provides that:

An application for patent term adjustment under this section must be filed no later than the payment of the issue fee but may not be filed earlier than the date of mailing of the notice of allowance. An application for

patent term adjustment under this section must be accompanied by:

(1) The fee set forth in § 1.18(e) ...

The instant request was filed after the mailing of the notice of allowance and prior to payment of the issue fee. However, neither the fee under § 1.18(e) nor a general authorization to charge any required fees, accompanied the request. Accordingly, the request is dismissed for failure to comply with the requirement of paragraph (b)(1) to submit the fee under §1.18(e).

It is further noted that Office records indicate that an issue fee payment was never made in this application. Accordingly, this application is subject to abandonment by operation of law for failure to pay the issue fee.

Nonetheless, to avoid further delay, in issuing this case, if it is revived, it is appropriate to remind applicant that:

The relevant period of adjustment pursuant to § 1.703(a)(1) is the number of days, ... beginning on the day after the date that is fourteen months after the date on which the application ... **fulfilled the requirements of 35 U.S.C. 371** and ending on the date of mailing of either an action under 35 U.S.C. 132, ..., whichever occurs first. **(emphasis added)**.

Prior to requesting any consideration of this petition on the merits, applicant may wish to review their PTA in light of the date of fulfillment of the requirements of 371.

The Publishing Division has been advised of this decision and directed to **consider processing of the abandonment of this application for failure to pay the issue fee.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson", with a long horizontal line extending to the right.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions